

HOUSE BILL No. 4903

June 7, 1989, Introduced by Rep. Gubow and referred to the Committee on Labor.

A bill to amend section 65 of Act No. 154 of the Public Acts of 1974, entitled as amended

"Michigan occupational safety and health act,"

being section 408.1065 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 65 of Act No. 154 of the Public Acts of
2 1974, being section 408.1065 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 65. (1) A person shall not discharge an employee or in
5 any manner discriminate against an employee because the employee
6 filed a complaint or instituted or caused to be instituted a pro-
7 ceeding under or regulated by this act or has testified or is
8 about to testify in such a proceeding or because of the exercise
9 by the employee on behalf of himself or herself or others of a
10 right afforded by this act.

1 (2) An employee who believes that he or she was discharged
2 or otherwise discriminated against by a person in violation of
3 this section may file a complaint with the department of labor
4 alleging the discrimination within ~~30 days~~ 1 YEAR after the
5 violation occurs. Upon receipt of the complaint, the department
6 of labor shall cause an investigation to be made as it considers
7 appropriate. If, upon the investigation, the department deter-
8 mines that this section was violated, the department shall order
9 all appropriate relief, including rehiring or reinstatement of an
10 employee to his or her former position with back pay.

11 (3) The director of labor, within 90 days after the receipt
12 of a complaint filed under this section, shall notify the com-
13 plainant of the determination under subsection (2).

14 (4) The employer or employee may request a review of the
15 department's determination within 15 working days after notifica-
16 tion is issued. If a request for a review by either the employer
17 or employee is not received by the department within 15 working
18 days, in the absence of a showing of good cause for a late
19 request, the department's determination is final. The employee,
20 employer, and the department shall be parties to a proceeding
21 before a hearings officer brought pursuant to this section.

22 (5) The director shall appoint hearings officers to make
23 determinations in proceedings brought pursuant to this section.
24 All proceedings in a hearing shall be conducted pursuant to the
25 procedures applicable to the trial of contested cases under
26 CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
27 No. 306 of the Public Acts of 1969, as amended, BEING SECTIONS

1 24.271 TO 24.287 OF THE MICHIGAN COMPILED LAWS. The hearings
2 officer shall affirm, modify, or rescind the order of the depart-
3 ment and may order an employer who violates this section to pay
4 attorney costs, hearing costs, and transcript costs. The hear-
5 ings officer shall issue a determination which constitutes a
6 final disposition of the proceedings to each party within 30
7 working days after the conclusion of the hearing. The determina-
8 tion of the hearings officer shall become the final agency order
9 upon receipt by the parties.

10 (6) A party to the proceeding may obtain judicial review
11 within 60 days after receipt of the determination of the hearings
12 officer pursuant to Act No. 306 of the Public Acts of 1969, as
13 amended. Venue for an appeal under this act shall be only in the
14 circuit where the employee is a resident, where the employment
15 occurred, or where the employer has a principal place of
16 business.

17 (7) In absence of an appeal by an employer who has not com-
18 plied with the determination of the hearings officer, the direc-
19 tor of labor shall initiate, in the county where the violation
20 occurred, in the county of Ingham, or in the county where the
21 employer has its principal office, the civil action necessary to
22 enforce an order of the department which has become a final
23 agency order as prescribed in this act.

24 (8) For the purpose of an investigation or proceeding under
25 this section, the director of labor or an authorized representa-
26 tive of the director may administer oaths and affirmations,
27 subpoena witnesses, compel their attendance, take evidence, and

1 require the production of records or other documents which the
2 department considers relevant or material to the inquiry.